FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
EXCISE APPEAL BRANCH

Dated: 20/06/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70279/2016-EX[DB] dated 31/05/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/3981/2006	CCE, GHAZIABAD CGO Complex II, Kamla Nehru Nagar, Ghaziabad.
		Name and Address of Respondent
2		MET TRADE INDIA LTD VILLAGE- BHEEL AKBARPUR, DADRI.

Copy To

3Advocate(s) / Consultant(s):

RAJESH CHIBBER,ADV
FA-9, KAVI NAGAR
GHAZIABAD

4 Bar Association, CESTAT, Delhi
5 Director Publications, Customs, Excise. I.P. Estate, Delhi
6 M/s Centax Publications Pvt. Ltd., 3512-B, Bhishm Pitamah Marg, New Delhi-3
7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithiyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
13 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
14 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
15 C.D.R. 16 Office Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No.E/3981/2006 (DB)

(Arising out of Order-in-Appeal No. 163-CE/GZB/2006 dated 13/10/2006 passed by Commissioner of Central Excise & Customs (Appeals), Ghaziabad)

For approval and signature:
Hon'ble Mr. Anil Choudhary, Member (Judicial)
and
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

Commissioner of Central Excise, Ghaziabad **Appellant**

Vs.

M/s Met Trade India Ltd. **Respondent**

Appearance:

Shri Pawan Kumar Singh, Supdt (AR) for Appellant
None for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 31/05/2016
Date of Decision : 31/05/2016

FINAL ORDER NO. 70279/2016

Per: Anil G. Shakkarwar

This appeal is filed by the revenue against Order-in-Appeal No. 163-CE/GZB/2006 dated 13/10/2006.

2. The brief facts of the case are that the respondent during the period from 01.10.2005 to 31.03.2006 were engaged in purchased of old and rejected batteries from open market as well as rejected batteries from manufacturers on which excise duty was paid and were recovering lead from such batteries. It appeared to revenue that waste and scrape of plastic generated in the course of dismantling of said batteries, attracted for Central Excise Duty. The revenue issued show cause notice no. 12/GZB-IV/2006 dated 10.07.2006 to the respondent demanding duty of Rs.56,007/- and Educations Cess of Rs.1,120 on the plastic waste and scrap generated & cleared by the respondent. The said show cause notice was adjudicated through order-in-original No. 47/2006-07 dated 23.08.2006 wherein the original authority confirmed the demand and directed to pay interest and penalty. Aggrieved by the said order respondent in present appeal preferred an appeal before the Commissioner (Appeals). Learned Commissioner (Appeals) passed order-in-Appeal No. 163-CE/GZB/2006 dated 13.10.2006 wherein he applying the ratio of this Tribunal's decision in the case of CCE Vs. Vijay Rama Gajapathi Co-operative Sugar Ltd. 2004

(63)RLT-61 (Tri.) set aside the said Order-in-Original dated 23.08.2006 and allowed appeal before him.

2. Challenging the said Order-in-Appeal dated 13.10.2006 CCE, Ghaziabad is before us contending that notification No.85/95-CE dated 18.05.1995 exempts waste arising in the course of manufacture of exempted goods and also that the said provisions of the notification do not apply to waste generated from a factory in which any other excisable goods other than exempted goods also are manufactured.

3. The respondent was absent on call. We have heard the learned DR. Learned DR reiterated the grounds of appeal as stated above.

4. We have gone through the record of the case and contention of learned DR. We find that the ground of appeal before us is totally different from the whole proceedings before filing ~~falling~~ of this appeal. Revenue appeal did not raise any contention to establish that the conclusion drawn by the learned Commissioner (Appeals) is not tenable in law. We, therefore, are unable to find any reason to interfere with ~~in~~ the impugned order passed by learned Commissioner (Appeals). We dismiss the appeal filed by revenue. No Costs.

(Dictated in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)